

**UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK**

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In re:

4D FACTORY, INC., *et al.*,<sup>1</sup>

Debtors.

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:  
: Chapter 11  
: (Subchapter V)  
: Case No. 23-11618 (MEW)  
: (Jointly Administered)  
:

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THE 4D FACTORY LLC,

Plaintiff,

v.

MARK LONG, *et al.*,

Defendants,

:  
:  
:  
: Adv. Proceeding No. 24-01319  
:

: **Amended Stipulation And**  
: **Scheduling Order**  
:

and

NEON MACHINE, INC., *et al.*,

Nominal Defendants.

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AND ALL RELATED CONSOLIDATED ACTIONS  
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This amended stipulation, agreement and order (the “Stipulation”) is entered into by Mark Long, Colin Foran, Naomi Lackaff, Aaron Nonis, Don Norbury, Mark Yeend (collectively, the “Delaware Plaintiffs”); Calvin Zhou; Polychain Ventures II LP and Polychain Ventures II (Parallel) LP (collectively, “Polychain”); Griffin Gaming Partners II, L.P. and Griffin Gaming Partners II Side Fund, L.P. (collectively, “Griffin”); Pierre-Edouard Planche, Benjamin Perszyk, and Josh Rosenthal (collectively, the “Fund Directors,” and together with the Delaware Plaintiffs,

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<sup>1</sup> The Debtors in these Chapter 11 Cases, along with the last four digits of each Debtors’ federal tax identification number, are 4D Factory Inc. (6770), and The 4D Factory LLC (8935).

Calvin Zhou, Polychain, and Griffin, the “Neon Parties”); The 4D Factory LLC (the “Debtor”);<sup>2</sup> and Cort Javarone, Scott Honour, and Steve Horowitz (together, the “Delaware Defendants,” and collectively with the Debtor and the Neon Parties, the “Parties” and each a “Party”). The Parties hereby stipulate and agree as follows:

### **RECITALS**

WHEREAS, the Parties previously entered into a stipulation agreeing to various deadlines in the above-captioned Adversary Proceeding, which was so-ordered by this Court, *see* [Adv. ECF No. 7].

WHEREAS, the Parties are discussing a potential consensual resolution of the issue of Network Launch.

WHEREAS, to facilitate those discussions and others that could lead to resolution of one or more claims or asserted claims, the Parties wish to adjust certain deadlines, and,

**NOW, THEREFORE, UPON THE FOREGOING RECITALS, IT HEREBY IS STIPULATED AND AGREED, BY AND BETWEEN THE PARTIES, THROUGH THE UNDERSIGEND, AND UPON COURT APPROVAL HEREOF, IT SHALL BE ORDERED THAT:**

Pursuant to Fed. R. Bankr. P. 7016 and 7026,

1. On or before April 18, 2024, the Debtor and the Delaware Defendants shall Answer or respond to the counterclaims and third-party claims served by the Delaware Plaintiffs, Polychain, and Griffin, *see* [Adv. ECF Nos. 8 and 9].

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<sup>2</sup> References to the Debtors are to the Debtor and 4D Factory, Inc., collectively.

2. On or before April 19, 2024, the Debtor shall respond to the motion to dismiss filed by the Delaware Plaintiffs and Calvin Zhou, *see* [Adv. ECF Nos. 13 and 14] (the “Motion to Dismiss”).

3. On or before April 26, 2024, the Delaware Plaintiffs and Calvin Zhou shall file a Reply in support of their Motion to Dismiss.

4. The hearing on the Motion to Dismiss scheduled for April 23, 2024 is taken off calendar, and the Motion to Dismiss shall be heard at a later date, subject to the Court’s availability and not earlier than May 6, 2024.

5. If the Parties do not resolve the issue of Network Launch by April 17, 2024, then the Neon Parties may move for partial summary judgment on this issue on an expedited basis, to be heard on or before April 30, 2024, subject to the Court’s availability. Any non-movant must have at least 7 days before the hearing to respond to a summary judgment motion filed under this paragraph.

**IN WITNESS WHEREOF**, this Stipulation has been executed and delivered as of the day and year first below written.

*[Remainder of Page Intentionally Left Blank.]*

Dated: April 15, 2024

By: /s/ Nicholas Bassett

Nicholas A. Bassett

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**SO ORDERED**

**Michael E. Wiles 4/16/2024**

United States Bankruptcy Judge

By: /s/ Allan Anderson

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